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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/574,682	04/04/2006	Ulrich Bohne	3623	2210
Striker, Striker	7590 12/08/200 & Stenby	EXAMINER		
103 East Neck 1	Road	MORGAN, EILEEN P		
Huntington, NY 11743			ART UNIT	PAPER NUMBER
			3723	
			MAIL DATE	DELIVERY MODE
			12/08/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, PROM THE MAILING DATE OF THIS COMMUNICATION. - Extractions from many be available under the provisions of 3 CPR 1.130(), in to event, however, may a rayby be timely filled. - If NO period for right is specified above, the maximum statulary princed will apply and will easily set (3) MONTHS from the material gate of this communication. - Failus to right within the set or extended period for right will be stated by a provision of the provision of the set of this communication. - Failus to right within the set or extracted period for right will be stated to the communication. - Failus to right within the set or extracted period for right will be stated to the communication. - Failus to right with the set or extracted period for right will be stated to the communication. - Failus to right with the set or extracted period for right will be stated to the communication. - Failus to right with the set of set of this communication, even if timely filed, may reduce any stated part that the material gate of this communication, even if timely filed, may reduce any stated part that the material gate of this communication, even if timely filed, may reduce any stated part that the material gate of the communication, even if timely filed, may reduce any stated part that the material gate of the communication is non-final. - Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. - Disposition of Claims - Application of Claims - Application of Claims - Since this application is a non-final and the provided part of the part of the part of the drawing (s) to the Examiner. - Application part of the case of the part of the part of the drawing (s) to the drawing (s) is objected to See 37 CFR 1.121(d). - The case of the case of the part of the part of the part of the pa		Application No.	Applicant(s)					
Ellean P. Morgan 3723	Office Action Summers	10/574,682	BOHNE ET AL.					
The MAILING DATE of this communication appears on the cover sheet with the correspondence address = Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION. Examense in many by a waiting a under the provisions of 3 CFR 1-1369, in no event, however, may a ricy be briefy lifed. If NO period for reply is appected above, the maximum statutory period will apply and will expres SIX (6) MONTHS from the manifeging case of this communication. Failurs to prely which the set or controlled period for impairs with the maximum statutory period will apply and will expres SIX (6) MONTHS from the manifeging case of this communication. Failurs to prely which the set or controlled period for impairs with the maximum statutory, and supply and the spire SIX (6) MONTHS from the manifeging case of this communication. Failurs to prely which the set or controlled period for impairs with the maximum statutory, and the preliminary of the maximum statutory and the maximum statutory. Failurs to prely which the set or condition from allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims	Oπice Action Summary	Examiner	Art Unit					
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1) Responsive to communication(s) filed on 17 August 2009. 2a This action is FINAL. 2b This action is non-final. 3 Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4 Claim(s) 1-5.9 and 11-25 is/are pending in the application. 4a) Of the above claim(s) 23-25 is/are withdrawn from consideration. 5 Claim(s) 1-5.9 and 11-25 is/are ellowed. 6 Claim(s) 1-5.9.11-22 is/are rejected. 7 Claim(s) 1-5.9.11-22 is/are rejected. 8 Claim(s) 1-5.9.11-22 is/are rejected. 9 Claim(s) 1-5.9.11-22 is/are rejected. 9 Claim(s) 1-5.9.11-22 is/are rejected. 9 Cl	 WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION. Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication. If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication. Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any 							
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DETAILED ACTION

Election/Restrictions

Newly submitted claims 23-25 directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: the claims are drawn to a tool having a gripping surface with housing and wherein the outer surface of conduit forms gripping surface which is drawn to a distinct invention.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 23-25 withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-5, 11-19 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1, it's unclear how the radial extent of the annular gap is smaller than diameter of shaft. The annular gap is around the shaft and therefore cannot be smaller.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 9,11-21 rejected under 35 U.S.C. 102(b) as being clearly anticipated by Izumisawa-5,919,085.

Izumisawa discloses a hand-held power sander comprising a housing (1,35), motor for driving a shaft (25) extending in longitudinal direction, a first suction conduit (42) within housing and having a chamber portion (41) surrounding and adjoining spindle (25) and acting as an intake at a face of the housing, the suction conduit extending along underside of motor (11,12,13), past a bearing flange (38), to an outlet stub (end where 42 joins 43), a tool receptacle (28) having a suction opening (30) (second suction conduit) directly coupled to conduit (42) via a region that is open toward outside of tool (47) to form an annular gap at the face end of housing between housing and tool receptacle and extends perpendicular to longitudinal direction. In regard to claim 16, conduit (42) can be sectioned anywhere and one section can have radial extent smaller than another section radial extent.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 4,5,22 rejected under 35 U.S.C. 103(a) as being unpatentable over Izumisawa, alone.

Izumisawa discloses a hand-held power sander as detailed above, but does not disclose inner radial region of conduit to be less than 1 cm nor the gap size. However, both of these limitations, the inner radial distance and the gap size, would have been obvious design expedients and within the level of one of ordinary skill in the art.

Response to Arguments

Applicant's arguments filed 8-17-09 have been fully considered but they are not persuasive. The amendment to claim 1 regarding the annular gap size is unclear and not understood how the gap, which surrounds the shaft can be smaller than the shaft diameter. The region of 47 has a part which is oriented downward but part of 47 is radial and perpendicular to shaft and therefore reads on the claimed limitations and is a proper 102 reference. Regarding claims 23-25, these are non-elected by original presentation.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eileen P. Morgan whose telephone number is 571.272.4488. The examiner can normally be reached on Monday-Thursday, 7am-3:30pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Hail can be reached on 571.272.4485. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

EM December 7, 2009

/Eileen P Morgan/ Primary Examiner, Art Unit 3723